



Legislative Update

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Child Abuse Bill Amendments Include Variety Of Provisions From Other Bills

Greg Smith

The Legislature passed **SHB 2556** in the waning moments of the 1998 Legislative session. This bill was amended significantly in conference committee and now contains components of several bills that the *Legislative Update* has been tracking during the past session. The original version of the bill made amendments to state law necessary for compliance with changes to the federal Child Abuse Prevention and Treatment Act and the Adoption and Safe Families Act. It also changed state law to strengthen state child abuse statutes.

The version of **SHB 2556** that has passed the Legislature now includes provisions from several other bills. Included within **SHB 2556** are many provisions from either **E3SSB 5278** or **E2SHB 3008**. Included in the final bill are a requirement that attending providers conduct reasonably appropriate tests at birth to determine whether a mother had given birth to a drug or alcohol affected infant, and a requirement that the provider notify DSHS of any such finding. If such a finding is made, the provider must retain the infant in the birthing facility or refer the child to a pediatric interim care facility until the child is weaned from the drug. Mothers who give birth to a second drug or alcohol affected infant would have the first drug or alcohol affected infant removed from their home, and a petition for termination of the parental right for the second infant would be filed. The mother would have the opportunity to enter chemical dependency treatment. If her income is under 200% of the federal poverty level, she would be informed of their right to a publicly funded tubal ligation. Additionally, the bill establishes model projects for the purpose of providing intensive chemical dependency and family support services to mothers of drug affected infants.

Sections 11-13 of **SHB 2556** reflect language that was originally a part of **SSB 6542**. These changes would increase the membership of the Family Policy Council (FPC) from 9 to 13 members by adding an additional legislator from each major legislative caucus. Currently, there is one member from each caucus on the FPC. Additionally, the Council would be required to make recommendations to the Legislature regarding how much

IN THIS ISSUE:

FEATURE ARTICLES

A Message From The
Legislative Director
Page 2

BILL WATCH

Data & Confidentiality
Environmental Health
Page 3

Families & Children
Fiscal
Professional/Facilities
Licensing
Page 5

Regulatory Reform
Tobacco
Page 7

Welfare Reform
Page 8

Con't Page 2

Child Abuse Bill *(con't)*

could be budgeted by community networks for planning and administrative purposes. Members of community networks would be required to clearly state in writing the nature of any fiduciary interest that they might have in network funded programs.

Also included are parts of **SSB 6558**, that require the Washington Institute for Public Policy to study whether citizen review panels are an appropriate vehicle for reviewing child abuse and neglect complaints.

There were two other pieces included in SHB 2556 that have not been included in any previous legislation that *Legislative Update* has been tracking this year. One provision clarifies that income received as a part of the adoption support program will not have that income counted in determining eligibility for the subsidized Basic Health Plan (which was originally contained in **SB 6406**). Also included is a plan, to be further developed by DOH and DSHS, for the provision of services to mothers who have delivered a drug or alcohol exposed or affected infant, meet the definition of being at risk, and are eligible for First Steps. In developing the plan, the Department of Health must inventory community based programs and services that may be available to mothers and their children, and calculate the potential long-term cost savings to the state in reduced use of medical, juvenile justice, public assistance and other dependency programs by children and mothers who receive First Steps services. §

A Message From The Legislative Director

Patty Hayes

The legislative session officially ended on March 12, 1998. In all, the legislature passed 371 bills. The Governor is now in the process of reviewing bills and determining whether he will sign or veto them. The Governor has until April 1 to sign bills which were passed during the last five days of the session. This includes a detailed review of the budget items. Interested groups, organizations, individuals and agencies are giving input to the Governor's staff. This week's version of Bill Watch covers the legislation tracked by DOH which has passed the legislature.

This will be our last newsletter until April, when the Governor completes action on the bills that have passed. At that time, we will publish a session wrap-up issue. During the interim, newsletters will be published according to the schedule of interim studies and legislative weekends. We hope this will assist you in keeping informed of DOH legislative activities, and about potential legislation as it is developed on the "hill."

Thank you to all who contributed to the newsletter this session. A special thanks to Greg Smith, Rae Simpson (graduate student editor), Brian Peyton, Vicki Bouvier and Andrea Baldonado. This newsletter would not happen without their continued diligence and commitment to excellence. Here's to a successful interim. §

Bill Watch

Bill Watch this week contains bills that have been passed by both house of the Legislature. *Sine Die* for the 1998 Legislative session occurred Thursday, March 12th. Bills that did not pass from both houses, in identical form, by that time were not forwarded to the Governor by the Legislature.

DATA AND CONFIDENTIALITY

SB 6329: Health Care Information Disclosure

Authorizes disclosure of health care information without patient's authorization to county coroners and medical examiners for the investigations of deaths. **Delivered to the Governor.**

ENVIRONMENTAL HEALTH

2E2SHB 1354a: Air Pollution Control

Revises air pollution control provisions. Requires the Department of Ecology to establish a scientific advisory board to review plans to create or expand an inspection and maintenance system for motor vehicle emissions. Exempts from the requirements for emission inspection collector cars as identified by the department of licensing under RCW 46.16.305(1), or beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old. Requires Ecology to evaluate changes to the motor vehicle emission inspection program and to recommend changes to the legislature by January 1, 1999. **Delivered to the Governor.**

SHB 1692: Port District Aquatic Lands

The only lands that may be included in a port district aquatic lands management agreement are those state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district. Upon request of a city, the department and city may enter into an agreement authorizing the city to manage state-owned aquatic lands for the purpose of operating a publicly owned marina. Directs the development of a proposed model management agreement that shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources. **Delivered to the Governor.**

SHB 1867a: Revising Provisions For Food Sanitation And Safety

Beginning July 1, 1999, the renewal period for food and beverage workers' permits is reduced from five to three years, unless the employee obtains additional food safety training. A limited-duty permit for disabled people is created. The local health officer specifies the activities that the permit holder may perform. This permit is recognized in all counties. It is specified that persons with contagious or infectious diseases that may be transmitted by food or beverage may not work in places where unwrapped or unpackaged food or beverages are prepared, consumed or sold. Health officers, by law, already restrict people with contagious diseases such as tuberculosis or chicken pox, which are not transmitted by food, from contact with the public in general.

The grace period to obtain a food and beverage service workers' permit is reduced from 30 to 14 days. Employers are required to provide information or training regarding safe food handling practices to employees prior to employment. **Delivered to the Governor.**

EHB 2414a: Outdoor Burning Compliance

Cities with a population of less than 5,000 that are not within or contiguous with an area not meeting federal or state air quality standards must phase out outdoor burning by December 31, 2006. **Delivered to the Governor.**

ESHB 2514a: Integrated Watershed Management

Allows discretion to local governments in how they may organize planning groups to assess local water supplies and needs and develop strategies to provide adequate water for economic prosperity and environmental protection while protecting existing water rights; review water quality problems and develop a strategy for achieving compliance with water quality standards; and formulate plans for protection and enhancement of water-related wildlife and fish habitat. **Delivered to the Governor.**

HB 2537: Shellfish Sanitary Control

Provides that a person whose license or certificate of approval is denied, revoked or suspended as a result of violations of chapter 69.30 RCW may not participate to any degree in a shellfish operation. **Signed by he Governor.**

HB 2542: Rural Counties/Growth Management

Provides that a rural county that adopts a resolution removing the county, and the cities located within the county, from the requirement to plan under the Growth Management Act remains subject to the requirements for the designation and protection of critical areas and the designation of natural resource lands. **Delivered to the Governor.**

EHB 2791a: Methamphetamine Crimes

Provides that the manufacture or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine in or near a residence in which a minor or a pregnant woman resides is a "most serious offense" under RCW 9.94A.030. Funds already deposited in the local toxic control account may be utilized for assessment, however funds from this program shall not be used for the initial containment of such a site. **Delivered to the Governor.**

SHB 2960a: Authorizing Permits-By-Rule For Certain Solid Waste Recycling Facilities

The Department of Ecology is directed to continue to refine the recommendations contained in the 1997 review of the state's solid waste system, and submit a report to the Legislature by December 1, 1998. The report must address: the applicability of a permit-by-rule process for solid waste recycling facilities; consistency of permitting for regional, multi-jurisdictional recycling facilities; the application of best available control technology on a consistent basis; and methods of integrating facility standards with the recommendations of the study. **Delivered to the Governor.**

SSB 5636a: Health Inspection Warrants

Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas. Requires the submission of specific evidence showing that it is reasonable to believe pollution is coming from the septic system on the property to be accessed. An administrative search warrant may be issued in response to pollution in shellfish harvest areas or in freshwater. **Delivered to the Governor.**

ESB 6123: Animal Health

Designates the authority and responsibility of the director of agriculture to supervise the prevention of the spread and the suppression of infectious, contagious, communicable, and dangerous diseases affecting

animals within, in transit through, and imported into the state. **Chapter 8, Laws of 1998.**

ESB 6139a: Amphetamine Penalties

A person convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver amphetamine is guilty of a class B felony ranked at seriousness level VIII on the sentencing grid, punishable by 21 to 27 months imprisonment for the first offense. The maximum imprisonment is 10 years. The offender is also subject to a fine of no more than \$25,000 for an amount less than two kilograms. For amounts over two kilograms, the fine can be no more than \$100,000 for the first two kilograms nor more than \$50 for each gram over two kilograms. The first \$3,000 of the fines cannot be suspended and are sent to the law enforcement agency responsible for the site cleanup. **Delivered to the Governor.**

SSB 6161: Dairy Nutrient Management

Establishes a credible registration and inspection program for dairy animal feeding operations to address the excessive discharge of nutrients or pollutants to waters of the state and lead to compliance by the industry with water quality laws. Maintains the administration of the water quality program as it relates to dairy operations at the state level. Creates a balanced program involving technical assistance, regulation, and enforcement with coordination and oversight of the program by an advisory committee composed of agency, industry, and other representatives. Clarifies the current coordination procedures and responsibilities between the Department of Ecology, the conservation commission, and conservation districts. Repeals RCW 90.64.005 and 90.64.090. **Delivered to the Governor.**

ESSB 6203a: Authorizing Exemptions From Solid Waste Designations

The state's solid waste management laws are amended. 1) Beneficial Use of Solid Waste: The DOE may by rule exempt a solid waste from the permitting requirements of those laws for beneficial use. In adopting the rules, the DOE must specify both the solid waste that is exempted and the beneficial use or uses for which it is exempted. The department must consider whether the material will be beneficially used or reused and whether the use will present threats to human health or the environment. 2) Exemptions for Waste Handling Facilities: The DOE may by rule exempt from solid waste handling permit requirements any category handling facility that it determines

presents little or no environmental risk and meets the environmental protection and performance requirements required for other similar solid waste facilities. 3) Deference to Other Permits: The DOE must adopt rules describing when a jurisdictional health department may, at its discretion, waive the requirement that a solid waste permit be issued for a facility if other air, water, or environmental permits are issued for the same facility. This deference to other permits may be allowed only if the applicant and the health department demonstrate that other permits for the facility will provide a comparable level of protection for human health and the environment that would be provided by a solid waste handling permit. 4) Civil Penalties: The DOE may assess a civil penalty in an amount up to \$1000 per day per violation to any person exempt from solid waste permitting under these authorities who fails to comply with the terms and conditions of the exemption. Each violation is a separate offense and each day's continuance is a separate violation. **Delivered to the Governor.**

SSB 6474a: Fertilizer Regulation

Requires after July 1, 1999, package labels on fertilizer to contain a statement that information is available on the Department of Agriculture's internet website regarding the components in the product. The department must post information contained in applications for fertilizer registration on the internet. **Signed by the Governor.**

ESSB 6497: Taking of Private Property

State agencies and local governments are required to make written findings and conclusions regarding government actions concerning the regulation of private real property. **Delivered to the Governor.**

FAMILIES & CHILDREN

SHB 2556: Child Abuse Prevention and Treatment

Makes modifications to the state's child abuse statutes to allow the state to come into compliance with federal law. Modifies memberships of the family policy council to include 4 additional legislative members. Requires members of community networks to identify in writing of any potential fiduciary interest in network activities. Mandates a study to determine the possibility of using citizen review panels to review child abuse complaints. Requires attending providers to determine whether a newborn infant has been exposed to drugs or alcohol, notify DSHS if the newborn is drug or alcohol affected,

and retain the infant in the birthing facility or a pediatric interim care facility until the child is weaned from the affecting drug. Requires DOH and DSHS to develop a comprehensive plan to provide services to mothers who give birth to drug or alcohol affected infants and their children. **Delivered to the Governor.**

HB 3103: Newborn Screening

Directs the department of health, in consultation with appropriate medical professionals, to develop screening criteria for use in identifying pregnant or lactating women addicted to drugs or alcohol who are at risk of producing a drug-affected baby. **Delivered to the Governor.**

FISCAL

SHB 2724: Enforcement Moneys/Legislative Oversight

Provides that no state officer or employee may expend moneys received from fines, penalties, forfeitures, settlements, court orders, or other enforcement actions except as provided in a specific appropriation by law. **Delivered to the Governor.**

ESSB 6108a: Supplemental Operating Budget

Appropriations from various agencies are modified, with no net increase in appropriations from the state General Fund. \$200 million from General Fund revenues is deposited in the state's Emergency Reserve Fund. **Delivered to the Governor.**

PROFESSIONAL/FACILITIES LICENSING

2SHB 1618a: Impaired Physician Programs

Makes technical revisions to provisions relating to treatment programs for impaired physicians. **Delivered to the Governor.**

ESHB 1769a: Electronic Transfer of Prescription Information

The electronic communication of prescription information is authorized by law. Electronic communication of prescription includes, original or refill information for legend drugs and controlled substances, Schedule III to V, between a prescribing practitioner and a pharmacy, or between pharmacies. No intervening person between a physician or naturopath and a pharmacy can have access to the prescription drug order. Electronic systems must be approved by the Board of Pharmacy, except for currently used FAX

equipment. The board must maintain a list of approved systems.

Electronically communicated prescription information must allow the opportunity for health prescribers to indicate their preferences for substituting therapeutically equivalent generic drugs authorized by law; protect the confidentiality of patient prescription information from unauthorized disclosure; and assure accuracy and authenticity of prescriptions. **Delivered to the Governor.**

SHB 2364: Health Professions Administrative Procedures

Revises RCW 43.70.280 to extend the authority of the secretary of health to write administrative rules for the health professions from July 1, 1998 to March 1, 1999. **Chapter 29, Laws of 1998.**

HB 2452: Medication Assistance

Allows individuals in community-based settings regulated by DSHS and DOH to self-administer legend drugs or controlled substances. Amends the Legend Drug Act to define “medication assistance” in those settings. The assistance is to be performed by non-credentialed practitioners. Assistance takes the form of: reminding or coaching the individual, placing the medication in the individual’s hand, or helping in the preparation of drugs for self-administration, or other means to be defined by DOH in rule. Community-based settings include adult family homes, boarding homes, and residential care settings. **Delivered to the Governor**

SHB 2688a: Hearing Instrument Fitters and Dispensers

Revises provisions of chapter 18.35 RCW to modify the educational requirements for licensure as a hearing instrument fitter/dispenser. Declares that the new educational requirements take effect December 31, 2002. Revises provisions of chapter 18.35 RCW to modify the educational requirements for licensure as a hearing instrument fitter/dispenser. Repeals the hearing instrument fitter/dispenser apprenticeship program. **Delivered to the Governor.**

HB 2788: Nursing Assistant Training

Provides that the nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards

meeting the requirements for a nursing assistant certificate. A process may be developed to test persons completing modules from a caregiver’s class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. Directs the Department of Social and Health Services (DSHS) and the nursing care quality assurance commission to work together to develop an implementation plan by December 12, 1998. **Delivered to the Governor.**

EHB 2920a: Counselor Continuing Education

The Secretary of Health is required to establish continuing competence requirements for certified counselors by rule. There must be at least 36 hours of continuing education during the two-year reporting period preceding the renewal of certification, including subjects in professional ethics and law. Certified counselors are responsible for obtaining thirty-six clock hours of continuing education during the two-year reporting period immediately preceding renewal of certification, at least six hours of which must be in professional ethics and law. **Chapter 32, Laws of 1998.**

HB 2990: Boarding Home Accreditation

Recognizes the need to involve the boarding home industry, the consumers of assisted living and retirement services, the long-term care ombudsman, and state regulatory agencies in the collaborative process of developing standards and procedures for accreditation of licensed boarding homes. Supports an industry-funded pilot program prior to changing or developing new standards for boarding home regulation. **Delivered to the Governor.**

SHB 2998: Privately owned defibrillators

Provides a limited immunity for use of semiautomatic external defibrillators. **Delivered to the Governor.**

2SSB 6168a: Temporary Worker Housing

Directs DOH to adopt by rule a temporary worker building code in conformance with the temporary worker housing standards developed under the Washington Industrial Safety and Health Act, rules adopted by the State Board of Health, and the designated guidelines. Requires that, by December 1, 1998, the Department of Labor and Industries shall adopt Rules requiring electricity in all temporary worker housing and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps, regardless of whether individual

or common cooking facilities are in use. Establishes a farm worker housing finance program within the Department of Community, Trade, and Economic Development. **Signed by the Governor.**

2SSB 6544a: Adult Family/ Boarding Homes

The Department of Health, the Department of Social and Health Services, the Nursing Care Quality Assurance Commission and representatives of other long-term care services are directed to meet with boarding home and adult family home providers and resident groups to develop recommendations on training standards for caregivers and administrators in adult family homes and boarding homes, and in-home care providers. Their report is due to the Legislature by December 1, 1998. The proposal must include recommended training standards for both administrators and staff serving residents with a diagnosis of dementia, mental illness or developmental disability. Training recommendations must take into account the following factors: availability and affordability of training; potential costs to DSHS and private providers; what types of training could transfer; competency testing; and practical and clinical coursework. Disclosure language requires all facilities receive a full assessment of the health condition of each resident before admission. Specific required information is defined. These assessments are required before admission except in cases of emergency placements. Facilities must also fully disclose to potential residents what items and activities they are capable of arranging. Facilities must also inform each resident in advance of changes in services, charges for services, or changes in the facility's rules. Facilities with six or fewer residents may make changes with a 14-day notice. The Division of Developmental Disabilities (DDD) must also conduct a study of current administrator and resident caregivers' training for specified programs and make recommendations to coordinate all training. **Delivered to the Governor.**

SSB 6550a: Chemical Dependency Professionals

A certification program is established for chemical dependency professionals administered by the Department of Health. Persons practicing chemical dependency counseling may represent themselves as "certified chemical dependency professionals" by meeting specified certification requirements in settings approved by DSHS. Applicants must pay a certification fee, pass an examination, and satisfy the education and experience requirements approved by the Secretary of

Health in consultation with the Chemical Dependency Certification Advisory Committee. The secretary is authorized to approve educational programs and alternative training. Chemical dependency counselors treating patients in settings other than programs approved by the DSHS may not represent themselves as Chemical Dependency Professionals. **Delivered to the Governor.**

REGULATORY REFORM

E2SHB 2345: Administrative Law Revisions

Revises provisions relating to administrative law rule-making and hearing procedures. A notification requirement for certain rules is added. Within 200 days of the effective date of a rule that imposes additional requirements on businesses that may subject a person to a sanction if violated, an agency must make a good faith effort to notify businesses affected by the rule of the requirements and how to obtain technical assistance. Good faith means the agency at least notifies businesses in the standard industrial classifications of businesses. Inadvertent failure to notify a specific business does not invalidate a rule.

The time period for JARRC to decide whether to impose the significant legislative rule requirements is extended from 45 to 75 days. Agencies may file proposals for the expedited repeal of rules at any time, instead of only twice a year. Each agency must report annually to JARRC on its progress in reviewing its rules, and must publish a summary of the report in the register. If JARRC receives a written objection within 90 days after publication, JARRC must determine whether the agency complied with the requirements. If JARRC finds that the agency did not comply, the agency has 120 days to receive approval from JARRC. If JARRC does not approve, the rule is deemed invalid. **Delivered to the Governor.**

SSB 6575: Administrative Rules Review

Expands the power of the joint administrative Rules Review committee. **Chapter 21, Laws of 1998.**

Bill Watch

TOBACCO

2ESHB 1746: Makes it illegal for a minor to possess or attempt to possess tobacco

Requires minors found guilty of possession or purchase of tobacco to pay a fine and perform four hours of community service. The court may also order the minor into a tobacco cessation program. Deletes the authority of local health departments, and adds the authority tobacco licensees to grant limited immunity to minors to participate in compliance activity.

Delivered to the Governor

SB 6483: Cigarette and Tobacco Tax Enforcement

Authorizes the transfer of enforcement of cigarette and tobacco taxes to the liquor control board. **Chapter 18, Laws of 1998.**

WELFARE REFORM

ESSB 6418a: Support Enforcement

A seven-day time period for remittance of withheld earnings is specified. Parents must provide certain information to the state child support case registry, and addresses of recipients are protected, under certain circumstances. The location of a noncustodial parent is protected upon request. Penalties for false reporting or failure to report new hires are specified and increased. Federal employer identification numbers are used by employers in reporting, replacing various other identifiers. The Governor and the Department of Social and Health Services must seek a waiver from Social Security number tracking provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act. Implements technical amendments to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. **Delivered to the Governor. §**



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